

TIER 3 GENERAL PERMIT TO DISCHARGE STORM WATER ASSOCIATED WITH INDUSTRIAL ACTIVITY

Fact Sheet
WPDES Permit No. WI-S049158-2
August 2001

SUMMARY

Facilities engaged in the "industrial" activities listed in s. NR 216.21, Wis. Adm. Code, must apply for and obtain a storm water discharge permit. To provide an incentive for facilities to eliminate exposures of materials and activities to storm water, a Tier 3 is provided in s. NR 216.21(2)(c), Wis. Adm. Code for facilities that have certified to the department that they have no discharges of contaminated storm water. Facilities covered by Tier 3 are not required to develop, implement, or maintain a storm water pollution prevention plan (SWPPP), conduct chemical specific monitoring or conduct annual site compliance and quarterly inspections. Tier 3 coverage also has minimal record keeping and reporting requirements. This fact sheet provides information regarding the Tier 3 general permit for the discharge of storm water associated with industrial activity.

INTRODUCTION

DNR's Authority to Issue Permits

The Federal Water Pollution Control Act of 1972 (Public Law 92-500), also called the Clean Water Act, requires that all point sources discharging pollutants to waters of the state obtain a wastewater discharge permit. These permits specify the conditions under which wastewaters can be discharged so that water quality standards for receiving waters are met. In 1974, the United States Environmental Protection Agency (USEPA) delegated the authority for issuing these permits to the Wisconsin Department of Natural Resources (DNR). The DNR exercises its permitting authority through the Wisconsin Pollutant Discharge Elimination System (WPDES), authorized under ch. 283, Wis. Stats. Wastewater permits issued by the state are also federal permits, and must meet with the approval of the USEPA.

The State of Wisconsin has the authority to issue two types of permits for the discharge of pollutants to waters of the state: 1) individual WPDES permits and 2) general WPDES permits. The DNR issues individual WPDES permits when the interaction between pollutant discharges and water quality is complex. These permits require careful scrutiny and must be tailored to the specific conditions of the discharge site. The DNR issues general WPDES permits to a broad class of dischargers where environmental protection can be achieved through a set of general provisions that apply to all dischargers in an industrial category.

New Storm Water Permit Program for Industries

In 1993, ch. 147 (now ch. 283), Wis. Stats., was amended to include storm water as a "point source" discharge and to require DNR to promulgate administrative rules for permitting the discharge of storm water. As a result, DNR created ch. NR 216, Wis. Adm. Code, for permitting storm water discharges associated with industrial activity, construction sites 5 acres or larger, and selected municipalities. These rules contain a specific directive for DNR to create a minimum of three tiers of general permits for the discharge of storm water associated with industrial activity. The Tier 1 general permit will cover the industrial activity listed in s. NR 216.21(2)(a), Wis. Adm. Code, including a variety of "heavy" type

industries, bulk storage facilities, and facilities engaged in salvage type operations. The Tier 2 general permit will cover the industrial activity listed in s. NR 216.21(2)(b), Wis. Adm. Code, including a variety of "light" industries, certain transportation facilities, mining operations, steam electric generating facilities, cement manufacturers, and asphalt pavers. Under these administrative rules, DNR may allow permittees to change coverage from one tier general permit to another, depending upon conditions present at the facility that could contaminate storm water. Ultimately, if a permittee can demonstrate that storm water at their facility is not exposed to any industrial activity in the source areas listed in s. NR 216.27(3)(e), Wis. Adm. Code, a facility can request coverage under a Tier 3 general permit for storm water discharge.

WISCONSIN'S TIER 3 GENERAL STORM WATER PERMIT

Purpose and Nature of the Tier 3 General Permit

Ch. NR 216, Wis. Adm. Code, defines the conditions under which storm water associated with industrial activity can be discharged so that waters of the state (including surface waters, ground water, and wetlands) will be protected. This storm water permit is intended to meet the permitting requirements for storm water associated with industrial activity as established in ch. NR 216, Wis. Adm. Code, for a Tier 3 general permit.

This permit will be issued by DNR, and subsequently used to cover eligible industries. The permit will become effective at a facility beginning upon the **Start Date** specified by DNR in a cover letter to the facility as required by s. NR 216.26(4), Wis. Adm. Code. In summary, this permit requires regulated industrial facilities to:

1. certify that there are no unpermitted non-storm discharges from storm water outfalls;
2. conduct annual Facility Source Exposure Inspections (FSEI); and
3. keep FSEI results and non-storm water evaluations current and available for inspection by DNR.

Summary of the Tier 3 General Permit for Industrial Storm Water Discharges

Changes from Previous Reissuance of this Permit: After September 30, 2001, this permit shall not authorize the initial discharge of storm water within Indian Country.

Part I. Storm Water Discharges Associated with Industrial Activity Eligible for Coverage by This Permit

A. Facilities Eligible for Coverage.

Facilities eligible for coverage under this permit include those specified in s. NR 216.21, Wis. Adm. Code, that have certified to the department that they have no discharges of contaminated storm water (as defined in s. NR 216.002(3) Wis. Adm. Code) and for which the department has concurred with the certification. In summary, this includes both "heavy" and "light" manufacturing facilities as determined by their SIC code that would otherwise be covered under a Tier 1 or Tier 2 general permit respectively.

B. Authorized Discharges

Non-storm water discharges to storm sewer systems can result in significant contamination of surface or groundwaters. This general storm water permit only authorizes the discharge of storm water associated

with industrial activity. It does not authorize the discharge of other wastewaters, such as cooling water, non-contact cooling water, other process wastewater, domestic sewage, spills, or leaks. Some of these discharges (such as process wastewaters and cooling waters) can be authorized through another general or individual WPDES permit. These other permits will specify different conditions appropriate for the discharge so that surface and groundwater quality is protected. The Department of Natural Resources, Bureau of Watershed Management, Permits and Pretreatment Section should be contacted if these discharges occur to determine what type of permit coverage is needed. This storm water permit does allow the commingling of non-storm water with storm water in a storm water outfall provided the non-storm water component is regulated under another permit. Under normal circumstances, there are no permits available for some types of non-storm discharges to the storm sewer system, such as the discharge of sanitary sewage (except in combined sewer areas), spills, and leaks. These types of discharges are generally illegal.

C. Movement to Tier 1 or Tier 2 Coverage

This section gives the Department the authority to move a facility presently covered under a Tier 3 permit into a Tier 1 or Tier 2 permit, in cases where contamination of storm water occurs.

D. Exclusions

Storm water discharges are not eligible for coverage under this permit unless they meet the conditions within this section.

This permit requires storm water discharges to meet the wetland standards of ch. NR 103, Wis. Adm. Code, the endangered and threatened resources protection requirements of s. 29.604, Wis. Stats. and ch. NR 27, Wis. Adm. Code. and that storm water discharges will not adversely effect any historic property pursuant to s. 44.40 (3), Wis. Stats. These conditions were added to the permit based on required state laws that came into effect since the permit was previously issued.

This permit shall not be used to provide initial permit coverage to a storm water discharge within Indian Country after September 30, 2001. Contact the DNR Northeast Regional office at (920) 492-5800 or the DNR Central office at (608) 267-7694 for non-Indian discharges within Indian Country to determine if state permit coverage from the Department is required. Storm water discharges within Indian Country from non-tribal lands that have state coverage under this general storm water permit prior to September 30, 2001 may continue to be covered under this state general permit for purposes of state law.

Part II. Application Requirements

This part of the permit explains the application requirements of s. NR 216.26, Wis. Adm. Code. Industrial facilities identified in the code to apply for a storm water discharge permit and to request Tier 3 coverage; facilities must certify that there are no discharges of contaminated storm water; if coverage under; if coverage under this permit is determined appropriate by the Department, the Department will concur with this certification, and transmit a copy of the Tier 3 permit to the facility with a cover letter, indicating the effective date of coverage. To assist the Department in making its evaluation, the Department recommends that the facility complete a self determination checklist that the Department will provide. In making the evaluation, the Department may inspect the facility.

Part III. Monitoring Requirements

A. Purpose.

This section reflects the requirements and conditions for both non-storm water discharge evaluations and an annual facility source exposure inspections. Testing for *non-storm discharges* to the storm sewer system is a federally required component of the permit. These federal monitoring requirements were established in s. NR 216.28, Wis. Adm. Code.

B. Evaluation of Non-Storm Water Discharges.

The Tier 3 facility must certify that the storm water discharge has been tested or evaluated for the presence of non-storm water discharges. This may be done once every five years using such techniques as dye testing, smoke testing, or video camera observation. Alternatively, a periodic (twice per year) visual inspection during dry-weather flow periods can be used as a testing method.

In the event that a non-storm water discharge is detected, the permittee must assess the source of the discharge. If a permittee identifies an unpermitted non-storm water discharge outfall and is unable to remove the discharge, the permittee shall notify the department and apply for a permit. Several types of non-storm water discharges will need coverage under some type of WPDES permit; for example, contact cooling water, non-contact cooling water, and other process wastewaters, or sewage discharges. There are, however, non-storm water discharges for which coverage under an individual or general WPDES permit is not necessary, including water line flushing, landscape irrigation, diverted stream flows, uncontaminated groundwater infiltration, uncontaminated pumped groundwater, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, and fire fighting. This section of the permit includes requirements and conditions on evaluating these discharges.

C. Annual Facility Source Exposure Inspection (FSEI).

This permit requires each permittee to conduct an annual facility source exposure inspection. The inspection must be written and adequate to verify that storm water discharged from the facility is not contaminated by industrial activity.

D. Potential Sources Areas of Storm Water Contamination.

This section contains a list of the source areas to consider when making a certification of non-contamination or when conducting an annual inspection.

Part IV. Compliance & Reporting

A. Annual Facility Source Exposure Inspection (FSEI).

This permit has an annual FSEI requirement for each permittee. The permit begins on the "start date" that is specified in the cover letter accompanying the permit at issuance. Consequently, all permittees have the same number of days in which to complete the FSEI activities regardless of when the permit becomes effective at the facility.

B. Non-Storm Water Discharges Evaluations.

This section directs Tier 3 facilities to maintain the results of their non-storm water evaluations on site. Information retained shall include date of testing, test method, outfall location, testing results and potential significant sources of non-storm water discovered through testing. Upon discovering non-storm water discharges which are not covered by another WPDES permit, the permittee must either seek coverage under another permit from the Department or eliminate the non-storm water discharge.

C. Tier 3 Permittee Unable to Evaluate Outfalls.

Any Tier 3 permittee unable to evaluate outfalls for non-storm water discharges must sign a statement certifying that this requirement could not be complied with, and shall submit the statement to the department by the end of the year in which the permittee was required to perform the evaluation.

D. Certification Statement.

The section contains the required text of the certification statement for the non-storm water evaluations.

Part V. General Permit Conditions

This section includes requirements to comply with this general permit and the applicable State laws and regulations.

A. NR 205. These are general permit conditions in s. NR 205.07(1), Wis. Adm. Code are required in all WPDES permits.

B. Work near Surface Waters and Wetlands. Other permits or approvals may be required of the permittee. The permittee is responsible for obtaining the necessary approvals.

C. Duty to Comply. Any act of noncompliance with this permit is a violation of the permit and is grounds for enforcement action, for permit termination or modification, or denial of coverage under the permit. If the permittee files a request for an individual WPDES permit or a notification of planned changes or anticipated noncompliance, this action by itself does not relieve the permittee of any permit condition.

D. Continuation of Expired General Permit. This permit condition assures continued coverage for a discharger under a WPDES permit in the event that DNR is late in replacing this permit with a new issue.

E. Duty to Halt or Reduce Activity. In the event of a management practice failure, this condition requires the permittee to modify or curtail other operations until best management practices are restored or an alternative practice is put in place.

F. Duty to Provide Information. This condition requires the permittee to promptly notify the DNR when he or she becomes aware of a failure to submit any relevant facts or a submittal of incorrect information.

G. Records Retention. The permittee shall retain all reports and records for a period of 5 years beyond the date effective date of permit coverage.

H. Notice of Termination. Facilities that cease discharging storm water associated with industrial activity can request that DNR terminate the facility's coverage under the general permit. This could come about,

for example, if a facility changes its business to a type that is no longer covered by this permit. In such cases, the permit serves no further purpose and can be terminated.

The DNR will not continue to apply the general permit in the case of facility closure and abandonment, provided that the site is left clean of pollutant residuals that could contaminate storm water.

I-X. Miscellaneous Conditions. These conditions are authorized or required by existing state law.

Any individual wishing further information should contact appropriate regional Department office or:

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Storm Water Program - WT/2
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